

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-26543
Issue No.: 3003
Case No.: [REDACTED]
Hearing Date: February 22, 2012
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 22, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Due to excess income, did the Department properly deny the Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for benefits for: received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |

2. On January 1, 2012, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.
3. On February 7, 2012, the Department sent Claimant Claimant's Authorized Representative (AR) notice of the denial. closure. reduction.
4. On January 18, 2012, Claimant or Claimant's AHR filed a hearing request, protesting the denial of the application. closure of the case. reduction of benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACCS, Rule 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of

1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, Claimant's FAP case was closed effective January 1, 2012. Claimant requested a hearing, which was held on February 2, 2012. Based on the decision issued in connection with that hearing, the Department reinstated Claimant's FAP case and recalculated Claimant's FAP budget, finding that she was eligible for monthly FAP benefits of \$16, effective January 1, 2012, ongoing. The Department sent Claimant a Notice of Case Action on February 7, 2012, informing her of the amount of her reinstated FAP benefits. Claimant's current hearing request was filed January 18, 2012, and was a second hearing request concerning the Department's prior action resulting in the closure of her FAP case, which was addressed at the February 2, 2012, hearing. At the hearing, Claimant clarified that she wished to have a hearing with respect to the Department's calculation of her FAP benefits to \$16 per month. Although Claimant had not filed a hearing request concerning her recalculated FAP benefits, the Department agreed to address the issue at the current hearing. Thus, this Decision and Order concerns a review of the Department's calculation of Claimant's FAP budget for January 1, 2012, ongoing resulting in the February 7, 2012, Notice of Case Action.

At issue with respect to Claimant's recalculated FAP budget is the Department's calculation of Claimant's unearned income. The Department produced a FAP budget for January 2012 ongoing showing Claimant's unearned income of \$1,182, consisting of (i) Claimant's Retirement, Survivors, and Disability Insurance (RSDI) gross monthly benefits of \$435, (ii) Claimant's Supplemental Security Income (SSI) gross monthly benefits of \$283, (iii) Claimant's monthly gross State SSI Payment (SSP) benefits of \$14 (based on a quarterly \$42 payment), and (iv) a \$450 monthly donation from Claimant's daughter to Claimant. Claimant acknowledged that she received RSDI, SSI and SSP benefits in the amounts indicated by the Department but challenged the Department's characterization of the fund transfers to her checking account as a donation from her daughter.

A donation to an individual by family or friends is the individual's unearned income. BEM 503. The Department explained that it reviewed Claimant's checking account statements for July 22, 2011, to August 18, 2011, and for November 22, 2011, to December 20, 2011, the only statements Claimant had made available to the Department at the time the Department prepared Claimant's FAP budget for January 1, 2012, ongoing, and found several cash transfer deposits made to Claimant's account. When the Department asked Claimant to explain these transactions, Claimant informed the Department that her daughter had transferred funds from her account to Claimant's account. The Department concluded that the transfers were donations from Claimant's daughter to Claimant.

At the hearing, Claimant testified that the deposits her daughter made to her account were used by her daughter to pay the daughter's own expenses although it was not

entirely clear from Claimant's testimony why her daughter had to use Claimant's account for her personal transactions. Because her daughter deposited the funds into Claimant's checking account, Claimant had access to these funds and could legally withdraw them herself. Thus, the funds were available to Claimant for her personal use. While Claimant's daughter was a joint owner of Claimant's account and could take funds out, there was no evidence on the record limiting Claimant's access to the funds. Furthermore, the Department credibly testified that it was not aware until the hearing that Claimant's daughter used the funds she transferred to Claimant's account for her own personal use. Consequently, the Department did not have the opportunity to consider this explanation at the time it recalculated Claimant's FAP budget and seek verification, if appropriate, that the deposited funds were not available to Claimant. Under these facts, the Department acted in accordance with Department policy when it classified the deposits to Claimant's checking account from Claimant's daughter as donations to Claimant.

Because the deposits were ongoing, the Department determined an average monthly donation amount of \$450 for purposes of the FAP budget. In determining this average, the Department testified that it added together all the amounts transferred by Claimant's daughter to Claimant's checking account for the two months for which Claimant had provided checking account statements and divided the sum by two. In determining the amount of a donation, the gross amount actually received is considered, if the individual making the donation and the recipient are not members of any common eligibility determination group. BEM 503. The Department's averaging of amounts received over the two months available to it is consistent with Department policy for determining budgetable income for irregular income. BEM 505. Thus, the Department acted in accordance with Department policy in determining the average amount of Claimant's unearned income from transfers received from her daughter and using this average as the monthly unearned income donation amount in Claimant's FAP budget.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that, due to excess income, the Department properly improperly

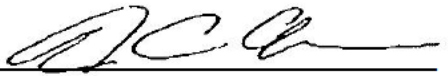
- denied Claimant's application
- reduced Claimant's benefits
- closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly did not act properly.

Accordingly, for the reasons stated above and on the record, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 27, 2012

Date Mailed: February 27, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

